

SUMMARY OF RECORD

APPENDIX LIST WITH

DECISION AND ORDERS
AND

AFFIDAVITS OF SERVICE

ENCLOSED

All Decision AND Orders AND Affidavit of Services For Pro-Se Applications Enclosed

APPendix
Record on Appeal
I. Direct Appeal

are circled in Red

- A = Appellate Brief Filed by Warren Landau of Appellate Advocates For The Defendant on June 27th, 2013
- B = Appellate Brief Filed by Respondent, Richmond County District Attorney, Dated August 16th, 2013
- (C) = Decision AND Order - Denying Direct Appeal, Dated July 1st, 2015
- D = Criminal Leave Application by A. Alexander Donn of Appellate Advocates For The Defendant, Filed on August 7th, 2015
- E = Opposition to Criminal Leave Application by Respondent, Richmond County District Attorney, Filed on August 19th, 2015
- (F) = Decision AND Order - Denying Criminal Leave Application in New York State Court of Appeals, Dated April 4th, 2016

II. Pro-Se Motions on Direct Appeal

- (G) = Motion To Expand Appellate Record. Dated Sept. 10th, 2013
- (H) = Supplemental Motion To Expand Appellate Record Dated Oct. 15th, 2013
- I = Affirmation in Support of Motions To Expand Appellate Record Made By Warren Landau of Appellate Advocates Dated October 31st, 2013
- J = Affirmation in Response To Motions To Expand Appellate Record Made By Respondents, Rich. Co. Dist. Atty, Dated November 7th, 2013
- (K) = Decision AND Order - Denying in Part (Except For Transcripts) Motion to Enlarge Judgment Roll (i.e. Expand the Appellate Record), Dated Jan. 6th, 2014
- L = Motion to Resettle or Amend, Pursuant to 22 NYCRR § 670.6 (A), the Jan. 6th, 2014 Order To Further Enlarge Judgment Roll, Submitted On or About Jan. 10th, 2014

- M= Affirmation in Support of Motion To Resettle or Amend the JAN. 6th, 2014 Order Made by Warren LANDAU of APPELLATE ADVOCATES, Dated Feb. 24th, 2014
- N= Affirmation in Response To Supplemental Motion To Further Enlarge The Judgment Roll Made by Respondents, Rich. Co. Dist. ATT., Dated Feb. 27th, 2014
- (D)= Decision AND Order - Denying in Part (Except for Additional Transcripts) Motion To Resettle or Amend the JAN. 6th, 2014 Order To Further Enlarge The Judgment Roll, Dated April 21st, 2014
- (P)= Affidavit, Mem. of Law and Exhibits in Support of Motion To Withdraw APPELLATE COUNSELS [Direct APPEAL] Brief [Assign New Counsel] AND/or For STAY of Action [To Consolidate CPL 440 Motion with Direct Appeal] Pursuant To CPLR § 2221, Dated March 20th, 2014
- Q= Affirmation in Response To Motion To Withdraw His COUNSELED APPELLATE Brief Made by Respondents, Rich. Co. Dist. ATT., Dated MAY 1st, 2014
- (R)= REPLY Affidavit in Response to Respondents OPPOSITION to Motion To Withdraw APPELLATE COUNSELS Brief, Dated April 24th, 2014
- (S)= Decision AND Order - Denying Motion to Relieve Counsel, Strike Brief Filed AND Assign New Counsel on Appeal To Aid in the Preparation of A Motion Pursuant to CPL 440, AND to Hold Appeal in Abeyance Pending The Determination of Motion Pursuant to CPL 440, Dated MAY 19th, 2014
- (T)= Pro-Se Supplemental Brief, Filed on Oct. 7th, 2014 / Also Attached: Note ^{See} Below
- U= Supplemental Brief for Respondent, Filed on April 14th, 2015
- (V)= Pro-Se Supplemental REPLY Brief, Submitted April 30th, 2015; Received AND Rejected by APP. Div., 2nd Dept. on MAY 5th, 2015
- (W)= Motion To File Pro-Se Supplemental REPLY Brief, Dated MAY 26th, 2015
- X= Affirmation in Response to Motion To File Pro-Se Supplemental REPLY Brief Made by Respondents, Rich. Co. Dist. ATT., Dated June 3rd, 2015

NOTE: Motion For STAY of Direct Appeal To Consolidate Pending Article 440, Filed Aug. 5th, 2014

Y = Affirmation in Response To Motion To File Pro-Se Supplemental Reply Brief Made by A. Alexander Donn of Appellate Advocates, Dated June 8th, 2015

(Z) = Decision and Order - Denying Motion To File Pro-Se Supplemental Reply Brief (After Direct Appeal Was Decided), Dated July 6th, 2015 (see Appendix "C")

III. Pro-Se Motions To Vacate The Judgment, Assign Counsel And Grant Hearing.

(AA) = Affidavit, Mem. of Law and Exhibits in Support of Motion To Vacate The Judgment Pursuant to CPL § 440.10 (1)(c)(d)(f)(g)(h); AND Separately Filed Motions For Assignment of Counsel AND Motion For An Evidentiary Hearing, Dated July 15th, 2014

BB = Affirmation in Response to Motions to Vacate The Judgment, To Assign Counsel AND For Evidentiary Hearing. Made By Respondents, Rich. Co. Dist. Att'y, Dated Sept. 26th, 2014

(CC) = Decision and Order - Denying Motion To Vacate Judgment, Assign Counsel AND For Evidentiary Hearing in One Combined Decision, Dated Dec. 15th, 2014

DD = Motion For Certificate Granting Leave To Appeal All Parts of the Dec. 15th, 2014 Order (see Appendix "CC"), Assigned App. Div., Second Dept. Case # 2015-00499, Filed on Jan. 13th, 2015

EE = Affirmation in Opposition to Motion For Certificate Granting Leave To Appeal All Parts of Dec. 15th, 2014 Order (see Appendix "CC") Made By Respondents, Rich. Co. Dist. Att'y, Dated Feb. 10th, 2015

(FF) = Reply Affidavit in Response to Respondents Opposition to Motion For Certificate Granting Leave To Appeal All Parts of Dec. 15th, 2014 Order (see Appendix "CC"), Dated Feb. 24th, 2015

(G-G) = Decision and Order - Denying ONLY Part of Motion For Certificate Granting Leave To Appeal To Vacate The Judgment of Conviction Made on Dec. 15th, 2014 (see Appendix "CC"), Dated April 30th, 2015

- HH = Decision AND Order - Denying ONLY Parts of Motion For Certificate Granting Leave to Appeal For Assignment of Counsel AND For An Evidentiary Hearing made on Dec. 15th, 2014 (see Appendix "CC") AS "Not Appealable As of Right or BY Permission (CPL 450.10, 450.15)" Dated April 30th, 2015
- II = Motion to ReArgue AND Renew, Pursuant to CPLR § 2221(d)(2) and (e)(2) the Decision AND Order Denying Certificate Granting Leave to Appeal To Vacate The Judgment (see Appendix "GG" AND "HH"), Dated June 25th, 2015
- JJ = Affirmation in Opposition to Motion to ReArgue AND Renew the Decision AND Orders Denying Certificate Granting Leave to Appeal to Vacate The Judgment (see Appendix "GG" AND "HH") made by Respondents, Rich. Co. Dist. Atty., Dated July 17th, 2015
- KK = Decision AND Order - Denying Motion to ReArgue AND Renew the Decision AND Orders Denying Certificate Granting Leave to Appeal to Vacate the Judgment (see Appendix "GG" AND "HH"), Dated Sept. 24th, 2015

IV. Pro-Se Motions For Leave To Appeal to The N.Y.S. Court of Appeals - Direct Appeal

- LL = Supplemental Criminal Leave Application From July 1st, 2015 Denial of MY Direct Appeal (see Appendix "C"), Dated August 11th, 2015
- MM = Motion To Withdraw Appellate Counsel As Counsel of Record AND To Assign New Counsel, Made to APP. Div., Second Dept., To File Seperate Leave To Appeal the MAY 19th, 2014 Order (see Appendix "S") to the New York State Court of Appeals, Dated October 1st, 2015
- NN = Affirmation in Response To Pro-Se Motion To Substitute Counsel, Made BY Respondents, Rich. Co. Dist. Atty., Dated October 22nd, 2015
- OO = Affirmation in Response To Pro-Se Motion To Relieve Assigned Counsel BY A. Alexander Dunn of Appellate Advocates, Dated October 22nd, 2015

PP= Motion To Enlarge Appellate Record To Include Article 440 Motions In Conjunction With Seperate Leave To Appeal the MAY 19th, 2014 Order (see Appendix "S"), Made to N.Y.S. Court of Appeals, Dated Nov. 3rd, 2015

QQ= Decision And Order - Denying Motion To Relieve Counsel And Assign New Counsel, Made to APP. Div., Second Dept., To File Seperate Leave To Appeal the MAY 19th, 2014 Order (see Appendix "S"), Dated January 8th, 2016

RR= Statement In Support of Application For Leave To Appeal the MAY 19th, 2014 Order (see Appendix "S"), Dated January 26th, 2016

SS= Decision And Order - Denying Leave To Appeal the MAY 19th, 2014, Order (see Appendix "S") As "Not Appealable Under CPL 450.90(1)", Dated April 4th, 2016

II. Pro-Se Motion For Writ of Error Coram Nobis And Supp. Motion To Expand The Record

TT= Affidavit And Mem. of Law In Support of Writ of Error Coram Nobis With Exhibits, And Supplemental Affidavit And Mem. of Law In Support of Motion to Expand the Record on Appeal with Exhibits, Dated Sept. 1st, 2016

UU= Affirmation In Response To Motions For Writ of Error Coram Nobis Relief BY A. Alexander Donn of Appellate Advocates, Dated October 12th, 2016

VV= Reply To Affirmation In Response To Motions For Writ of Error Coram Nobis Relief Made BY A. Alexander Donn of Appellate Advocates, Dated Oct. 27th, 2016

WW= Affirmation In Opposition To Motions For Writ of Error Coram Nobis Relief BY Respondents, Rich. Co. Dist. Atty., Dated January 13th, 2017

XX= Reply To Affirmation In Response To Motions For Writ of Error Coram Nobis Relief BY Respondents, Rich. Co. Dist. Atty., Dated February 1st, 2017

YY= Decision And Order - Denied Motions For Writ of Error Coram Nobis Relief And To Expand The Record, Made by APP. Div., Second Dept. on April 12th, 2017

VI. Pro-Se Motions For Leave To APPEal Writ of Error CorAM Nobis AND To
EXpAND The Record Made To New York State Court of APPEals

ZZ= Record on APPEal For Leave To APPEal Writ of Error CorAM Nobis AND To
EXpAND The Record, Dated June 20th, 2017

AAA= Statement IN SUPPort of Certificate GRANTING Leave To APPEal Writ of
Error CorAM Nobis AND To EXpAND the Record, Dated August 20th, 2017

BBB= SUPPLEMENTAL Statement IN SUPPort of Certificate GRANTING Leave To APPEal
Writ of Error CorAM Nobis AND To EXpAND the Record, Dated October 5th, 2017

CCC= Decision AND Order - DENYING Leave To APPEal Writ of Error CorAM Nobis
AND To EXpAND The Record, Made by Chief Judge Janet Di Fiore, Dated
October 19th, 2017

Appendix "C"

**Supreme Court of the State of New York
Appellate Division: Second Judicial Department**

D45905
Q/hu

_____AD3d_____

Argued - May 15, 2015

WILLIAM F. MASTRO, J.P.
CHERYL E. CHAMBERS
SHERI S. ROMAN
HECTOR D. LASALLE, JJ.

2011-01960

DECISION & ORDER

The People, etc., respondent,
v Anthony Rucano, appellant.

(Ind. No. 270/09)

Lynn W. L. Fahey, New York, N.Y. (Warran S. Landau and Alex Donn of counsel),
for appellant, and appellant pro se.

Daniel L. Master, Jr., Acting District Attorney, Staten Island, N.Y. (Morrie I.
Kleinbart and Paul M. Tarr of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Richmond County
(Rooney, J.), rendered January 21, 2011, convicting him of rape in the first degree, criminal sexual
act in the first degree, attempted rape in the first degree, assault in the second degree, assault in the
third degree, and criminal possession of a weapon in the third degree, upon a jury verdict, and
imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's challenge to the legal sufficiency of the evidence is unpreserved for
appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484, 492). In any event, viewing
the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we
find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt.
Moreover, in fulfilling our responsibility to conduct an independent review of the weight of the
evidence (*see* CPL 470.15[5]; *People v Danielson*, 9 NY3d 342), we nevertheless accord great
deference to the jury's opportunity to view the witnesses, hear the testimony, and observe demeanor
(*see People v Mateo*, 2 NY3d 383, 410; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing the

July 1, 2015

PEOPLE v RUCANO, ANTHONY

Page 1.

record here, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

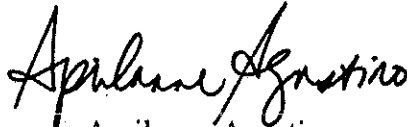
The defendant's contention that he was deprived of a fair trial by certain of the prosecutor's summation remarks is unpreserved for appellate review (*see* CPL 470.05[2]). In any event, the prosecutor's comments did not deprive the defendant of a fair trial, as the challenged remarks were responsive to the defense summation (*see People v Galloway*, 54 NY2d 396, 399).

There is no merit to the defendant's contention that he was deprived of the constitutional right to effective assistance of counsel (*see Strickland v Washington*, 466 US 668; *People v Benevento*, 91 NY2d 708, 712-713).

The defendant's remaining contentions, including those raised in his pro se supplemental brief, are unpreserved for appellate review and, in any event, without merit.

MASTRO, J.P., CHAMBERS, ROMAN and LASALLE, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

Appendix "F"

State of New York Court of Appeals

BEFORE: LESLIE E. STEIN, Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

ANTHONY RUCANO,

Appellant.

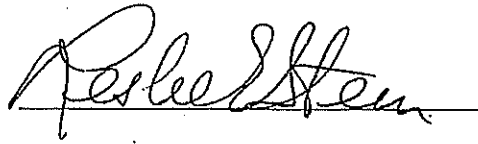
**ORDER
DENYING
LEAVE**

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law § 460.20 from an order in the above-captioned case;*

UPON the papers filed and due deliberation, it is

ORDERED that the application is denied.

Dated: April 4, 2016
at Albany, New York



Associate Judge

*Description of Order: Order of the Appellate Division, Second Department, dated July 1, 2015, affirming a judgment of the Supreme Court, Richmond County, rendered January 21, 2011.

Appendix "b"

Affidavit of Service ONLY

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

)ss.:

COUNTY OF CLINTON)

Anthony Rucano, being first duly sworn, deposes and says:

That I am the petitioner, herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as Notice of Motion and Affidavit in Support of Motion to Expand the Appellate Record, addressed to the Second Department, Appellate Division and parties below, by depositing the same in a mail box here under the care, custody and control of Clinton Correctional Facility, P.O. Box 2001 Dannemora N.Y. 12929, for delivery to the United States Postal Service:

TO: Richmond County District
Att: Appeals Bureau
Attorneys Office
130 Stuyvesant Place
Staten Island, N.Y. 10301

Warren S. Landau
Appellate Advocates
Associate Appellate Counsel
2 Rector St., 10th Floor
New York, N.Y. 10006

Sworn to before me this 10

day of Sept 2013.

[Signature]
Notary Public, State of New York
No. 01DU6008379
Qualified in Clinton County
Commission Expires 8/22/21

NOTARY PUBLIC

[Signature: Anthony Rucano]

**Anthony Rucano, 11A0528
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929**

Appendix "H"

Affidavit of Service Only

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

)ss.:

COUNTY OF CLINTON)

Anthony Rucano, being first duly sworn, deposes and says:

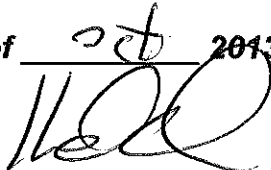
That I am the petitioner, herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as Supplemental Affidavit in Support of Motion to Expand the Appellate Record, addressed to the Second Department, Appellate Division and parties below, by depositing the same in a mail box here under the care, custody and control of Clinton Correctional Facility, P.O. Box 2001 Dannemora N.Y. 12929, for delivery to the United States Postal Service:

TO: Richmond County District
Att: Appeals Bureau
Attorneys Office
130 Stuyvesant Place
Staten Island, N.Y. 10301

Warren S. Landau
Appellate Advocates
Associate Appellate Counsel
2 Rector St., 10th Floor
New York, N.Y. 10006

Sworn to before me this 15

day of Oct 2013.



Harry D. Durgan
Notary Public, State of New York
No. 01DU6008379
Qualified in Clinton County
Commission Expires 8/22/17

NOTARY PUBLIC



**Anthony Rucano, 11A0528
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929**

Appendix "K"

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M167251
E/sl

RUTH C. BALKIN, J.P.
CHERYL E. CHAMBERS
LEONARD B. AUSTIN
SHERI S. ROMAN, JJ.

2011-01960

The People, etc., respondent,
v Anthony Rucano, appellant.

DECISION & ORDER ON MOTION

(Ind. No. 270/09)

Motion by the appellant pro se, inter alia, for leave to file a supplemental brief on an appeal from a judgment of the Supreme Court, Richmond County, rendered January 21, 2011. Separate motion by the appellant pro se to enlarge the judgment roll to include certain documents and certain transcripts, including the transcript of the grand jury proceedings.

Upon the papers filed in support of the motion, inter alia, for leave to file a pro se supplemental brief and no papers having been filed in opposition or in relation thereto, and upon the papers filed in support of the motion, inter alia, to enlarge the judgment roll and the papers filed in opposition thereto, it is

ORDERED that the branch of the motion which is for leave to file a supplemental brief is granted, and the appellant shall file nine copies of the supplemental brief and serve one copy on the District Attorney on or before April 7, 2014; and it is further,

ORDERED that the branch of the motion which is to enlarge the judgment roll to include the transcript of the proceeding which occurred on October 5, 2010, is denied as unnecessary as that transcript is included in the original papers on file with the Clerk of this Court; and it is further,

ORDERED that the branch of the motion which is to enlarge the judgment roll to include the transcripts of the proceedings which occurred on July 7, 2010, July 16, 2010, and August 10, 2010, is granted; and it is further,

ORDERED that the decision and order on motion of this Court dated August 18, 2011, which granted poor person relief to the appellant is amended to include a direction to the court reporter to make, certify and file two transcripts of the stenographic minutes of the proceedings which occurred on July 7, 2010, July 16, 2010, and August 10, 2010, if they are available; and it is further,

ORDERED that the stenographer is directed to make, certify and file such minutes within 45 days of the date of this decision and order on motion, and the Clerk of the trial court shall furnish one copy to the Clerk of this Court, without charge (*see* CPL 460.70); and it is further,

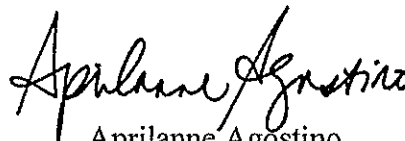
ORDERED that in the event the stenographer has already prepared a transcript of the stenographic minutes of the above proceedings for a codefendant, then the Clerk of the trial court is directed to reproduce a copy thereof for the Clerk of this Court; and it is further,

ORDERED that the branch of the motion which is to enlarge the judgment roll to include the transcript of the minutes of the grand jury proceedings is granted to the extent that, on or before January 28, 2014, the District Attorney shall file a transcript of the grand jury proceedings, under seal, with the Clerk of this Court, for in camera review by the panel of Justices assigned to hear the appeal, and those minutes shall remain sealed upon delivery; and it is further,

ORDERED that the motions are otherwise denied.

BALKIN, J.P., CHAMBERS, AUSTIN and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read 'Aprilanne Agostino', is written over the printed name.

Aprilanne Agostino
Clerk of the Court

Appendix "O"

**Supreme Court of the State of New York
Appellate Division: Second Judicial Department**

M172205

E/sl

RANDALL T. ENG, P.J.
ROBERT J. MILLER
SYLVIA O. HINDS-RADIX
JOSEPH J. MALTESE, JJ.

2011-01960

The People, etc., respondent,
v Anthony Rucano, appellant.

DECISION & ORDER ON MOTION

(Ind. No. 270/09)

Renewed motion by the appellant pro se on an appeal from a judgment of the Supreme Court, Richmond County, rendered January 21, 2011, inter alia, to be provided with the transcripts of proceedings which occurred on October 1, 2009, October 5, 2009, and August 10, 2010, and to enlarge the record to include certain "Individual and Couples Counseling session notes." Separate motion by the appellant pro se to enlarge the time to serve and file his supplemental brief.

Upon the papers filed in support of the renewed motion and the papers filed in opposition or in relation thereto, and upon the papers filed in support of the separate motion and the papers filed in relation thereto, it is

ORDERED that the branch of the renewed motion which is to be provided with the transcripts of proceedings which occurred on October 1, 2009, and October 5, 2009, is granted, and the decision and order on motion of this Court dated August 18, 2011, which granted poor person relief to the appellant is amended to include a direction to the court reporter to make, certify and file two transcripts of the stenographic minutes of the proceedings which occurred on October 1, 2009, and October 5, 2009, if they are available; and it is further,

ORDERED that the stenographer is directed to make, certify and file such minutes within 45 days of the date of this decision and order on motion, and the clerk of the trial court shall furnish one copy to the Clerk of this Court, without charge (*see* CPL 460.70); and it is further,

ORDERED that in the event the stenographer has already prepared a transcript of the stenographic minutes of the above proceedings for a codefendant, then the clerk of the trial court is directed to reproduce a copy thereof for the Clerk of this Court; and it is further,

April 21, 2014

Page 1.

PEOPLE v RUCANO, ANTHONY

ORDERED that the branch of the renewed motion which is to be provided with the transcript of the proceedings which occurred on August 10, 2010, is denied as unnecessary in light of the decision and order on motion of this Court dated January 6, 2014, and the transcript of those proceedings, if available, will be provided to the appellant, after the minutes are transcribed, if available; and it is further,

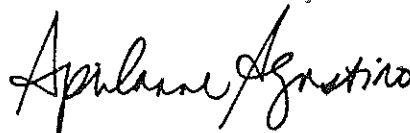
ORDERED that the renewed motion is otherwise denied; and it is further,

ORDERED that the separate motion by the appellant pro se to enlarge the time to serve and file his supplemental brief is granted, and the appellant's supplemental brief shall be served and filed on or before July 21, 2014; and it is further,

ORDERED that the appellant shall file nine copies of the supplemental brief and serve one copy on the District Attorney.

ENG, P.J., MILLER, HINDS-RADIX and MALTESE, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Aprilanne Agostino
Clerk of the Court

APPendix "P"

Affidavit ONLY
of Service

With Recreated Exhibit List For Motion
To Withdraw APP, Counsels Brief

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

)ss.:

COUNTY OF CLINTON)

Anthony Rucano, being first duly sworn, deposes and says:

That I am the petitioner, herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as Notice of Motion and Affidavit in Support of Motion to Withdraw Appellate Counsel's Brief and/or For Stay of Action Pursuant to CPLR 2221, addressed to the Second Department, Appellate Division and parties below, by depositing the same in a mail box here under the care, custody and control of Clinton Correctional Facility, P.O. Box 2001 Dannemora N.Y. 12929, for delivery to the United States Postal Service:

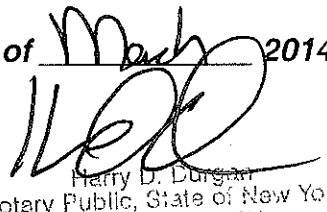
TO: Richmond County District
Att: Appeals Bureau
Attorneys Office
130 Stuyvesant Place
Staten Island, N.Y. 10301

Warren S. Landau
Appellate Advocates
Associate Appellate Counsel
2 Rector St., 10th Floor
New York, N.Y. 10006

Attorney General of the State of New York
Att: Eric T. Schneiderman
Law Department
The Capitol
Albany, N.Y. 12224

Sworn to before me this 20

day of March 2014.


Harry D. Dorgan
Notary Public, State of New York
No. 01DU6008379
Qualified in Clinton County
Commission Expires 6/30/14

NOTARY PUBLIC



Anthony Rucano, 11A0528
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929

* Re-Created From Motion *

Motion To Withdraw Appellate Counsels Brief Exhibit List

- I-A Sept. 30th, 2011 Letter to Paralegal Irene Wojcicki, Appellate Advocates
Attached = "Transcripts Needed For Appeal Preparation" dated 10/3/09 &
 "Files/Records That Can Be Provided" dated 10/3/09 → should have been 10/3/11
- I-B Oct 10th, 2011 ~~Letter~~ to Ms. Wojcicki (Received Oct 18th)
Attached = "Document Table of Contents" + Complainants Complete Grand Jury Testimony
 June 21st, 2010 Discovery/Rosario Letter From ADA Katchen, Forensic Document
 Examiners Complete Reports All Provided to Appellate Advocates
- I-C Oct 14th, 2011 Letter to Ms. Wojcicki About Just received Grand Jury Notice
- I-D Oct 24th, 2011 Letter to Ms. Wojcicki (Received Oct 28th)
Attached = "Table of Documents Concerning Violation of Right to Testify At Grand Jury"
- I-E Oct. 31st, 2011 Letter from Ms. Wojcicki. telling me "Please do not file A
 440 motion on your own"
- I-F Nov 12th, 2011 Letter to Ms. Wojcicki (Received Nov. 18th)
Attached = "Synopsis of Cross examination / Failure to Investigate" with 2 subsections
 "Voicemails" AND "Cross-Exam of Ms. Mach"
 "Table of Contents Concerning Cross-Examination / Failure to Investigate Issues"
- I-G April 20th, 2012 Letter From Warren Landau, Appellate Advocates, urging
 me not to file A CPL § 440.10 motion until he reviewed it.
- I-H May 5th, 2012 Letter to Warren Landau, informing him of 3 Packages
 sent to Ms. Wojcicki so far, and informing him of desire to raise Grand
 Jury issues, explaining I was not sure of the proper venue to present
 such a claim (i.e. Direct Appeal or Article 440)
Attached = Report of Forensic Handwriting Personality Profiler Tretce d'Gabriel Montoya

- 1-I MAY 23rd, 2012 Letter From Warren LANDAU stating not to file 440
- 1-J MAY 29th, 2012 Letter From Warren LANDAU; wait until we advise you
- 1-K Sept. 30th, 2012 Letter To Senior Attorney WILLIAM G. HASTIN, Appellate Advocates
- 1-L Oct. 4th, 2012 Letter From Warren LANDAU
- 1-M Nov. 22nd, 2012 Letter to Warren LANDAU
- 1-N Dec. 24th, 2012 Letter to ATTORNEY IN CHARGE LYNN FAHEY of Appellate Advocates
- 1-O JAN. 7th, 2013 Letter From Warren LANDAU
- 1-P Feb. 12th, 2013 Letter to Warren LANDAU
- 1-Q Feb. 20th, 2013 Letter to Warren LANDAU
- 1-R March 6th, 2013 Letter From Warren LANDAU
- 1-S April 22nd, 2013 Letter To Warren LANDAU
- 1-T MAY 13th, 2013 Letter To Warren LANDAU
- 1-U "Questions Presented" for ATTORNEY Eugene Lamb Attached to MAY 13th, 2013 Letter
- 1-V June 7th, 2013 Letter From Warren LANDAU, starting my Brief
- 1-W June 17th, 2013 Letter To Warren LANDAU; JULY 16th, 2009 Transcripts, Handwritten
Expert
Report
- 1-X June 19th, 2013 Letter From Warren LANDAU
- 1-Y June 27th, 2013 Letter From Warren LANDAU, Providing me with Appellate Brief
- 1-Z July 8th, 2013 Letter to Warren LANDAU, Filed With Richmond County Clerk
- 2-A Oct. 23rd, 2013 Letter From Warren LANDAU - Replying to Pro-se
Motion to Enlarge to
Record
- 2-B Oct. 29th, 2013 Letter To Warren LANDAU
- 2-C Papers Rejection Notice marked "Criminal"
- 2-D JAN. 7th, 2014 Letter From APP. Div. Second Dept. stating Papers returned
in error
- 2-E Dec. 26th, 2013 Letter To Warren LANDAU Requesting D.A.'s OPPOSITION Brief
- 2-F Dec. 23rd, 2013 Letter To LYNN FAHEY Requesting D.A.'s OPPOSITION Brief
- 2-G JAN. 24th, 2014 Complaint to 2nd Dept. Grievance Committee about Warren LANDAU

- 2-H Feb. 3rd, 2014 Letter From 2nd Dept. Grievance Comm. Transferring to 1st Dept.
- 2-I Feb. 4th, 2014 Letter From Warren Landau Providing D.A.'s Opposition Brief
- 2-J March 23rd, 2001 Report of APP Div., 1st Dept. Comm on Representation of Poor
- 2-K NYSBA Revised Standards to Ensure Quality of Mandated Representation
- 2-L Response to MAY 21st, 2012 FOIL to Dir. Amy Stanciu, Assigned Counsel PLAN
- 2-M Article 78 Index # 401298/12, Amended and Supplemental Petition
- 2-N Nov. 21st + Dec. 3rd, 2012 Letter with Vouchers from Beth Goldman, ^{FOIL APPEALS} OFFICER
- 2-O Jan. 10th, 2013 Letter from Administrator Barbara Di Fiore, ^{Assigned} Counsel PLAN
- 2-P FOIL Request And Appeal to APP Div., 2nd Dept., not subject To FOIL
- 2-Q MAY 3rd, 2013 FOIL Request to Advisory Committee of Assigned Counsel PLAN
- 2-R June 21st, 2013 Letter From Shawn Kerby, Asst. Deputy Counsel, Office ^{OF COURT} ADMIN.
Providing recertification rules to Assigned Counsel PLAN and records of Eugene Lamb
- 2-S Sept 4th, 2002 Application of Eugene Lamb to Participate in Assigned ^{Counsel} PLAN
- 2-T Dec. 27th, 2005 Recertification of Eugene Lamb to Assigned Counsel PLAN
- 2-U Jan. 3rd, 2009 Recertification of Eugene Lamb to Assigned Counsel PLAN
- 2-W Select Vouchers For Cases Eugene Lamb Took To Trial From Assigned Counsel PLAN
- 2-X Vendor Payment Reports for Eugene Lamb for 2008-2012
- 2-Y Assigned Counsel PLAN Advisory Comm. Recertification Rules For 18-B ^{CRIMINAL} PANELS
- 2-Z Proposed Draft Copy of Article 440
- 2-V Dec. 10th, 2011 Recertification of Eugene Lamb to Assigned Counsel PLAN

Appendix "R"

Affidavit Only
of Service

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

)ss.:

COUNTY OF CLINTON)

Anthony Rucano, being first duly sworn, deposes and says:

That I am the petitioner, herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as Reply Affidavit in Response of Motion to Withdraw Appellate Counsel's Brief and/or For Stay of Action Pursuant to CPLR 2221, addressed to the Second Department, Appellate Division and parties below, by depositing the same in a mail box here under the care, custody and control of Clinton Correctional Facility, P.O. Box 2001 Dannemora N.Y. 12929, for delivery to the United States Postal Service:

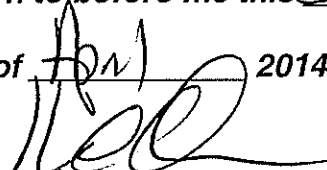
TO: Richmond County District
Att: Appeals Bureau
Attorneys Office
130 Stuyvesant Place
Staten Island, N.Y. 10301

Warren S. Landau
Appellate Advocates
Associate Appellate Counsel
2 Rector St., 10th Floor
New York, N.Y. 10006

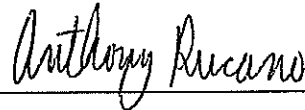
Attorney General of the State of New York
Att: Eric T. Schneiderman
Law Department
The Capitol
Albany, N.Y. 12224

Sworn to before me this 24

day of April 2014.


Harry D. Durgan
Notary Public, State of New York
No. 01DU6008379
Qualified in Clinton County
Commission Expires 8/20/19

NOTARY PUBLIC



Anthony Rucano, 11A0528
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929

APPendix "S"

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M174255
E/ct

MARK C. DILLON, J.P.
L. PRISCILLA HALL
SANDRA L. SGROI
BETSY BARROS, JJ.

2011-01960

DECISION & ORDER ON MOTION

The People, etc., respondent,
v Anthony Rucano, appellant.

(Ind. No. 270/09)

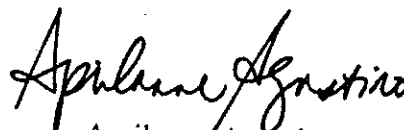
Motion by the appellant pro se on an appeal from a judgment of the Supreme Court, Richmond County, rendered January 21, 2011, inter alia, to relieve counsel, to strike the brief filed by assigned counsel, for the assignment of new counsel on the appeal and to aid in the preparation of a motion pursuant to CPL 440, and to hold the appeal in abeyance pending determination of the motion pursuant to CPL 440.

Upon the papers filed in support of the motion and the papers filed in opposition and in relation thereto, it is

ORDERED that the motion is denied.

DILLON, J.P., HALL, SGROI and BARROS, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

May 19, 2014

PEOPLE v RUCANO, ANTHONY

Appendix "T"

Affidavit Only
of Service

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

) ss.:

COUNTY OF CLINTON)

Anthony Rucano, being first duly sworn, deposes and says:

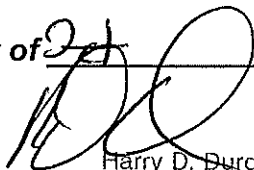
That I am the defendant, herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as Pro-Se Supplemental Brief, addressed to the Appellate Division, Second Department and parties below, by depositing the same in a mail box here under the care, custody and control of Clinton Correctional Facility, P.O. Box 2001 Dannemora N.Y. 12929, for delivery by the United States Postal Service to:

TO: Richmond County District
Att: Appeals Bureau
Attorneys Office
130 Stuyvesant Place
Staten Island, N.Y. 10301


William A. Loeb
Appellate Advocates
Associate Appellate Counsel
111 John St, 9th Floor
New York, N.Y. 10038

Sworn to before me this 7

day of Sept 2014.


Harry D. Durgan
Notary Public, State of New York
No. 01DU6008379
Qualified in Clinton County
Commission Expires 8/21/20

NOTARY PUBLIC


Anthony Rucano, 11A0528
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929

APPENDIX "V"

Affidavit ONLY
of Service

Appendix "W"

Affidavit of Service Only

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) SS.:
COUNTY OF CLINTON)

Anthony Rucano, Being first duly sworn, deposes and says, that I am the Defendant-Appellant herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as [motion to file supplemental pro-se reply brief] by depositing same in a mail box here at the Clinton Correctional Facility, P.O. Box 2001, Dannemora, N.Y. 12929, for delivery to the United States mail addresses of the parties below:

ORIGINAL COPY TO:

Hon. AprilAnne Agostino
Clerk of the Court
Appellate Division
Second Judicial Department
45 Monroe Place
Brooklyn, N.Y. 11201

Richmond County District Attorney
Att: Appeals Bureau
130 Stuyvesant Place
Staten Island, N.Y. 10301

Sworn to before me this 21

day of May, 2015


[NOTARY PUBLIC]

CARBON COPY TO:

A. Alexander Donn.
Appellate Advocates
111 John St, 9th Floor
New York, N.Y. 10038

x 

Signature

Anthony Rucano, Pro-Se, 11A0528
Clinton Correctional Facility
P.O. Box 2001
Dannemora, N.Y. 12929

Robert R. Rabideau
Notary Public, State of New York
No. 01RA6304593
Qualified in Clinton County
Commission Expires 6/9/18

Appendix "Z"

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M194971
E/sl

WILLIAM F. MASTRO, J.P.
CHERYL E. CHAMBERS
SHERI S. ROMAN
HECTOR D. LASALLE, JJ.

2011-01960

The People, etc., respondent,
v Anthony Rucano, appellant.

DECISION & ORDER ON MOTION

(Ind. No. 270/09)

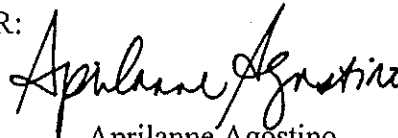
Motion by the appellant pro se for leave to serve and file a supplemental reply brief on an appeal from a judgment of the Supreme Court, Richmond County, rendered January 21, 2011.

Upon the papers filed in support of the motion and the papers filed in relation thereto, it is

ORDERED that the motion is denied.

MASTRO, J.P., CHAMBERS, ROMAN and LASALLE, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

July 6, 2015

PEOPLE v RUCANO, ANTHONY

APPendix "AA"

Affidavit of Service ONLY

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

) ss.:

COUNTY OF CLINTON)

Anthony Rucano, being first duly sworn, deposes and says:

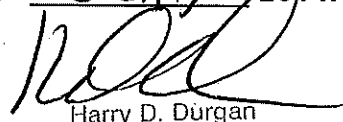
That I am the defendant, herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as Notice of Motion, Affidavit in Support of Motion, and Memorandum of Law to Vacate the Judgment Pursuant to Criminal Procedure Law § 440.10 (1) (C) (D) (F) (G) (H), Notice of Motion and Affidavit in Support of Motion for the Assignment of Counsel, and Notice of Motion and Affidavit in Support of Motion for an Evidentiary Hearing, along with annexed exhibits, addressed to the Richmond County Supreme Court and parties below, by depositing the same in a mail box here under the care, custody and control of Clinton Correctional Facility, P.O. Box 2001 Dannemora N.Y. 12929, for delivery by the United States Postal Service to:

TO: Richmond County District
Att: Appeals Bureau
Attorneys Office
130 Stuyvesant Place
Staten Island, N.Y. 10301

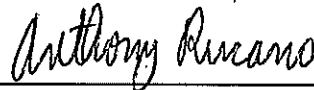
William A. Loeb
Appellate Advocates
Associate Appellate Counsel
111 John St, 9th Floor
New York, N.Y. 10038

Attorney General of the State of New York
Att: Eric T. Schneiderman
Law Department
The Capitol
Albany, N.Y. 12224

Sworn to before me this 15
day of July, 2014.


Harry D. Durgan
Notary Public, State of New York
No. 01DU6008379
Qualified in Clinton County
Commission Expires 6/30/18

NOTARY PUBLIC



Anthony Rucano, 11A0528
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929

Appendix "CC"

SUPREME COURT OF THE STATE OF NEW YORK,
RICHMOND COUNTY, PART V

THE PEOPLE OF THE STATE OF NEW YORK

-against-

Anthony Rucano,

Defendant.

DECISION AND ORDER

Indictment No. 270/2009

Date: December 15, 2014

Hon. Stephen Rooney

The defendant was convicted on September 21, 2010, after a jury trial, of Rape in the First Degree, Criminal Sexual Act in the First Degree, Attempted Rape in the First Degree, Assault in the Second Degree, Criminal Possession of a Weapon in the Third Degree and Assault in the Third Degree in violation of Penal Law §§ 130.35(1), 130.50(1), 110/130.35(1), 120.05(6), 265.02(1) and 120.00(1). The defendant now moves, *pro se*, pursuant to C.P.L. 440.10 to vacate the judgment based upon alleged prosecutorial misconduct and alleged ineffective assistance of counsel¹. The defendant also moves for an evidentiary hearing and for the assignment of counsel. The People oppose this motion.

The defendant's claims fall into two categories. They are either conclusory allegations that are not supported by any documentary evidence or affidavit, or they are based upon matters that are within the record. The defendant does not state his basis of knowledge for his conclusory allegations (e.g. the defense attorney failed to investigate and the defense attorney failed to adequately prepare). Hence, the defendant is not entitled to the relief he seeks based upon conclusory allegations. See, C.P.L. 440.30(1) and (4)(b). Additionally, pursuant to C.P.L. 440.10(2)(b) the court must deny a motion when the judgment is, at the time of the motion, appealable or pending on appeal, and

¹ In a written decision dated, January 11, 2011, this court denied defendant's C.P.L. 330.30 motion based upon ineffective assistance of counsel.

sufficient facts appear on the record with respect to the ground or issue raised upon the motion to permit adequate review thereof upon such an appeal. The defendant's direct appeal is currently pending before the Appellate Division, Second Department. Therefore, petitioner's motion to vacate his judgment pursuant to C.P.L. § 440.10 is denied.

The defendant's motion for an evidentiary hearing is denied. Here, the defendant is attempting to discover evidence that would support the conclusory allegations in his C.P.L. 440.10 motion. There is no constitutional or common-law right to discovery in criminal cases. People v. Chiera, 255 AD2d 685 (3rd Dept., 1998). During the course of a criminal action, it is not within the authorized powers of the courts to compel disclosure which is not provided for in CPL article 240 and attempts to do so generally warrant issuance of a writ of prohibition." Matter of Pittari v. Pirro, 258 AD2d 202 (2nd Dept., 1999), *lv. denied* 94 NY2d 755 (internal citations omitted). Moreover, because there is no constitutional right to discovery, discovery in excess of that which is authorized may not be granted based upon principles of due process. Matter of Brown v. Grosso, 285 AD2d 642 (2nd Dept., 2001), *lv. denied* 97 NY2d 605. Here, the defendant's motion for an evidentiary hearing is nothing more than an attempt to depose his trial attorney. Such a procedure is not authorized by either C.P.L. Article 240 or 440 and therefore, must be denied.

The defendant's motion for the assignment of counsel is denied. A defendant cannot claim a state or federal constitutional right to effective assistance of counsel on a motion pursuant to C.P.L. 440. People v. Simmons, 100 AD3d 809 (2nd Dept., 2012), *lv. denied* 20 NY2d 1014.

This constitutes the decision and order of the court.

Dated: December 15, 2014
Staten Island, New York


Stephen Rooney

APPENDIX "FF"

Affidavit of Service ONLY

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

)ss.:

COUNTY OF CLINTON)

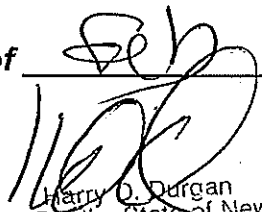
Anthony Rucano, being first duly sworn, deposes and says:


That I am the defendant, herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as a Reply Affidavit in Support of Application to the Appellate Division for a Certificate Granting Leave to Appeal Pursuant to CPL § 450.15, addressed to the Second Department, Appellate Division and parties below, by depositing the same in a mail box here under the care, custody and control of Clinton Correctional Facility, P.O. Box 2001 Dannemora N.Y. 12929, for delivery by the United States Postal Service:

TO: Richmond County District Attorney
Att: Appeals Bureau
130 Stuyvesant Place
Staten Island, N.Y. 10301

Alex Donn
Appellate Advocates
Associate Appellate Counsel
111 John St, 9th Floor
New York, N.Y. 10038

Sworn to before me this 24
day of Feb 2015


Harry O. Dorgan
Notary Public, State of New York
No. 01DU6008379
Qualified in Clinton County
Commission Expires 8/10/20
NOTARY PUBLIC



Anthony Rucano, 11A0528
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929

APPendix "b-b"

**Supreme Court of the State of New York
Appellate Division : Second Judicial Department**

M189743
jr/

COLLEEN D. DUFFY, J.

2015-00499

DECISION & ORDER ON APPLICATION

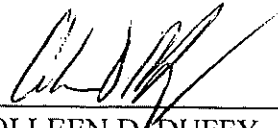
The People, etc., plaintiff,
v Anthony Rucano, defendant.

(Ind. No. 270/09)

Application by the defendant, pursuant to CPL 450.15 and 460.15 for a certificate granting leave to appeal to this Court from so much of an order of the Supreme Court, Richmond County, dated December 15, 2014, as denied his motion pursuant to CPLR 440.10 which has been referred to me for determination.

Upon the papers filed in support of the application and the papers filed in opposition thereto, it is

ORDERED that the application is denied.



COLLEEN D. DUFFY
Associate Justice

April 30, 2015

PEOPLE v RUCANO, ANTHONY

APPENDIX "HH"

**Supreme Court of the State of New York
Appellate Division: Second Judicial Department**

M190298

S/sl

PETER B. SKELOS, J.P.
RUTH C. BALKIN
SHERI S. ROMAN
SYLVIA O. HINDS-RADIX, JJ.

2015-00499

The People, etc., plaintiff,
v Anthony Rucano, defendant.

DECISION & ORDER ON MOTION

(Ind. No. 270/09)

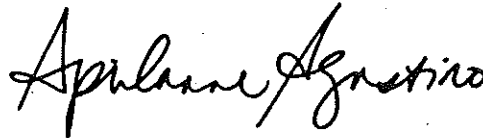
Motion by the defendant for leave to appeal to this Court so much of an order of the Supreme Court, Richmond County, dated December 15, 2014, as denied his motions for poor person relief and for a hearing in connection with his motion pursuant to CPL 440.10.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is denied as the portions of the order which denied his motions for poor person relief and for a hearing are not appealable as of right or by permission (*see* CPL 450.10, 450.15).

SKELOS, J.P., BALKIN, ROMAN and HINDS-RADIX, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

April 30, 2015

PEOPLE v RUCANO, ANTHONY

APPENDIX "II"

Affidavit of Service Only

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

) ss.:

COUNTY OF CLINTON)

Anthony Rucano, being first duly sworn on the 25th, day of June, 2015, deposes and says, that I am the Defendant herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as **MOTION TO REARGUE & RENEW PURSUANT TO CPLR § 2221 [d][2] & [e][2]**, by depositing the same in a mail box here at the Clinton Correctional Facility for delivery to the United States mail address to the parties below, with the original going to the Clerk of Court, Appellate Division, Second Department, 45 Monroe Place, Brooklyn, N.Y. 11201

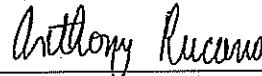
Original sent to:

Aprilanne Agostino
Clerk of the Court
Appellate Division
Second Department
45 Monroe Place
Brooklyn, New York, 11201

Copy sent to:

District Attorney's Office
Richmond County
Att: Appeals Bureau
130 Stuyvesant Place
Staten Island, N.Y. 10301

Respectfully Submitted,



Anthony Rucano, 11-A-0528
Clinton Correctional Facility
P.O. Box 2001
Dannemora, N.Y. 12929

SWORN TO BEFORE ME THIS

25 DAY OF June, 2015


NOTARY PUBLIC

Robert R. Rabideau
Notary Public, State of New York
No. 01RA6304593
Qualified in Clinton County
Commission Expires 6/9/18

APPENDIX "KK"

Supreme Court of the State of New York
Appellate Division : Second Judicial Department

M198629

sl/

COLLEEN D. DUFFY, J.

2015-00499

The People, etc., plaintiff,
v Anthony Rucano, defendant.

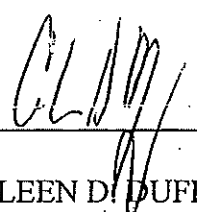
DECISION & ORDER ON MOTION

(Ind. No. 270/09)

Motion by the defendant for leave to reargue his prior application pursuant to CPL 450.15 and 460.15 for a certificate granting leave to appeal to this Court from so much of an order of the Supreme Court, Richmond County, dated December 15, 2014, as denied his motion pursuant to CPL 440.10, which was denied by me in a decision and order on application dated April 30, 2015.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is denied.


COLLEEN D. DUFFY
Associate Justice

September 24, 2015

PEOPLE v RUCANO, ANTHONY

APPendix "LL"

Affidavit of Service ONLY

Appendix "MM"

Affidavit of Service Only

Appendix "PP"

Affidavit of Service ONLY

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

) ss.:

COUNTY OF CLINTON)

Anthony Rucano, being first duly sworn, deposes and says:

That I am the petitioner, herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as Notice of Motion and Affidavit in Support of Motion to Enlarge the Appellate Record, addressed to the New York State Court of Appeals and parties below, by depositing the same in a mail box here under the care, custody and control of Clinton Correctional Facility, P.O. Box 2001 Dannemora N.Y. 12929, for delivery to the United States Postal Service:

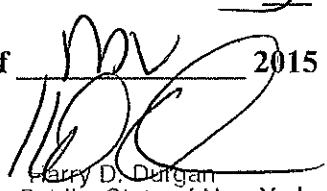
TO: Richmond County District Attorney
Att: Appeals Bureau
130 Stuyvesant Place
Staten Island, N.Y. 10301

Appellate Advocates
A. Alexander Donn
111 John St., 9th Floor
New York, N.Y. 10038


Solicitor General of the State of New York
Att: Nikki Kowalski
Asst. Solicitor General for Criminal Matters
120 Broadway
New York, New York 12207

Sworn to before me this 3

day of Nov 2015


Harry D. Duggan
Notary Public, State of New York
No. 01DU6008379
Qualified in Clinton County
Commission Expires 8/22/18

NOTARY PUBLIC


Anthony Rucano, 11A0528
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929

NEW YORK STATE COURT OF APPEALS

**Anthony Rucano,
Appellant, Pro se,**

VS.

**THE PEOPLE OF THE STATE OF NEW YORK,
Respondents,**

AMENDED APPENDIX SUPPLEMENTING RECORD ON APPEAL

**Richmond County
Indictment No.: 270-09**

Appellate Division No.: 2011-01960

APPENDIX	DESCRIPTION
A	Motion to Withdraw Appellate Counsel's Brief - DATED March 20 th , 2014
B	Response From Nikki Kowalski of the Solicitor Generals Office DATED April 30 th , 2014
C	Reply From Richmond County District Attorney's Office Concerning Motion to Withdraw Appellate Counsel's Brief - DATED May 1 st , 2014, and Appellate Counsel Warren Landau's Affirmation in Response- DATED April 15 th , 2014
D	Defendants Reply Affidavit In Support Of Motion to Withdraw Appellate Counsel's Brief
E	ORDER Denying Motion to Withdraw Appellate Counsel's Brief DATED May 19 th , 2014
F	ORDER Denying Appellant's Direct Appeal - DATED July 1 st , 2015
G	Application For Leave To Appeal - DATED 1/13/15 <u>PROVIDED FOR CONTEXT ONLY</u>
H	Motion to Enlarge the Record With Exhibits - DATED September 13 th , 2013, and Supplemental Affidavit in Support of Motion to Enlarge the Record - DATED Oct. 15 th , 2013, and Peoples Response - DATED November 7 th , 2013
I	Decision and Order of Second Department on Motion to Enlarge the Record Granting in Part - DATED – 1/6/14
J	Motion to Resettle or Amend the Decision of the Second Department, Appellate Division made January 6 th , 2014, pursuant to 22 NYCRR §670.6 (a) - DATED January 16 th , 2014
K	Decision and Order of Second Department on Motion to Resettle or Amend Granting in Part, - DATED April 21 st , 2014
L	Pro-Se Supplemental Brief - DATED October 7 th , 2014
M	People's Opposition to Defendant's Pro Se Supplemental Brief - DATED April 14 th , 2015
N	Proposed Pro-Se Supplemental Reply Brief - DATED April 30 th , 2015
O	Motion to File a Pro Se Supplemental Reply Brief - DATED May 26 th , 2015
P	People's Opposition to Defendant's Motion To File Pro Se Supplemental Reply Brief DATED June 3 rd , 2015

Q	Affirmation in Response to Defendant's Motion to File Pro Se Reply Brief by A. Alexander Donn of Appellate Advocates – DATED June 8 th , 2015
R	Decision and Order of Second Department Denying Motion to file Pro-Se Supplemental Reply Brief - DATED July 6 th , 2015
X	Motion For the Assignment of Counsel Submitted To the Richmond County Supreme Court, Dated July 9 th , 2014
Y	Motion To Vacate the Judgment, dated December 15 th , 2014
Z	Decision and Order of Richmond County Supreme Court Denying Motion For The Assignment of Counsel, Motion For An Evidentiary Hearing and Motion To Vacate the Judgment, dated December 15 th , 2014

I have read all of these documents and know them to be true and accurate copies of the documents in the files of: (a) the Richmond County Supreme Court, (b) the Richmond County District Attorney's Office, (c) the Appellate Division, Second Department, or otherwise documents within the public domain.

Respectfully submitted,

Petitioner Pro se
 Anthony Rucano
 DIN # 11-A-0528
 Clinton Correctional Facility
 P.O. Box 2001
 Dannemora, New York 12929

Sworn to Before Me This
 _____ Day of November, 2015

 Notary Public

APPENDIX "QQ"

**Supreme Court of the State of New York
Appellate Division: Second Judicial Department**

M204389
E/ct

RUTH C. BALKIN, J.P.
LEONARD B. AUSTIN
ROBERT J. MILLER
SYLVIA O. HINDS-RADIX, JJ.

2011-01960

The People, etc., respondent,
v Anthony Rucano, appellant.

DECISION & ORDER ON MOTION

(Ind. No. 270/09)

Motion by the appellant pro se on an appeal from a judgment of the Supreme Court, Richmond County, rendered January 21, 2011, which was determined by decision and order of this Court dated July 1, 2015, to relieve counsel assigned to represent him by decision and order on motion of this Court dated August 18, 2011, and for the assignment of new counsel.

Upon the papers filed in support of the motion and the papers filed in relation thereto,
it is

ORDERED that the motion is denied.

BALKIN, J.P., AUSTIN, MILLER and HINDS-RADIX, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

January 8, 2016

PEOPLE v RUCANO, ANTHONY

APPENDIX "RR"

Affidavit of Service ONLY

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) SS.:
COUNTY OF CLINTON)

Anthony Rucano, being first duly sworn, deposes and says, that I am the defendant, herein, and that on the date of notarization indicated below, I have placed in a sealed postpaid wrapper a true and exact copy of the enclosed papers identified as a Statement in Support of a Application for Leave to Appeal to the Court of Appeals, by depositing same in a mail box here at the Clinton Correctional Facility for delivery to the United States mail address to the parties below:

ORIGINAL COPY TO:

N.Y. State Court of Appeals
Att: Honorable Leslie E. Stein
Court of Appeals Hall, 20 Eagle St.
Albany, N.Y. 12207-1095

Asst. Solicitor General For Criminal Matters
Att: Nikki Kowalski
120 Broadway
New York, N.Y. 12207

CARBON COPY TO:

Richmond County District Attorney
Att: Appeals Bureau
130 Stuyvesant Place
Staten island, N.Y. 10301

Sworn to before me this 26,

day of Jan, 2016

Harry D. Durgan
NOTARY PUBLIC

Harry D. Durgan
Notary Public, State of New York
No. 01DU6008379
Qualified in Clinton County
Commission Expires 08/2018

Anthony Rucano
Signature

Appendix "SS"

State of New York Court of Appeals

BEFORE: HON. LESLIE E. STEIN, Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

ANTHONY RUCANO,

Appellant.

**ORDER
DISMISSING
LEAVE**


Ind. No. 270/09

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law (CPL) § 460.20 from an order in the above-captioned case;*

UPON the papers filed and due deliberation, it is

ORDERED that the application is dismissed because the order sought to be appealed from is not appealable under CPL 450.90 (1).

Dated: April 4, 2016



Associate Judge

*Description of Order: Order of the Appellate Division, Second Department, dated May 19, 2014, denying appellant's motion on an appeal from a judgment of Supreme Court, Richmond County, rendered January 21, 2011, inter alia, to relieve counsel, to strike the brief filed by assigned counsel, for assignment of new counsel and to hold the appeal in abeyance.

APPENDIX "TT"

Verification with Affidavit of Service ONLY

VERIFICATION WHEN NOTARY PUBLIC IS UNAVAILABLE

I, Anthony RUCANO, am a prisoner of the State of New York, currently incarcerated at the Great Meadow Correctional Facility, which is located at 11739 State Route 22, P.O. 51, Comstock, N.Y. 12821-0051, and my ability to acquire the services of a Notary Public is entirely under the control of Corrections Staff and Officials. I have made several attempts to obtain a Notary Public via Law Library as well as by requesting the same to my company officer and other officers here at Great Meadow. Contrary to the decision handed down by the U.S. Supreme Court in Bounds v Smith, 430 U.S. 817, 824-25, 97 S.Ct 1941, at 1946 (1977), I have not received such services to date, nor have I been advised as to how or when the next available Notary Public services will be forthcoming.

THEREFORE, I must verify the enclosed documents by the method approved in the decision of People v Sullivan, 56 N.Y.2d 378 (1982), to wit:

I verify that the foregoing statements and/or documents are true and accurate to the best of knowledge, and that I base them upon facts that I personally know, or believe in good faith to be true. I further declare and /or verify that any false statements made herein are to be punishable as a Class A Misdemeanor pursuant to Penal Law §210.40. I further understand that to offer or present the foregoing documents to a judicial officer, knowing that it contains any false statement(s), is punishable as a Class A Misdemeanor Pursuant to Penal Law §175.30.

Executed on this 1st day of September, 2016

Enclosed Documents Sworn to Are:

- 1) Affidavit of Service (Attached)
- 2) Affidavit in Support of Writ of Error Coram Nobis (Enclosed)
- 3) Affidavit in Support of Writ of Error Coram Nobis AND to Expand the Record (Enclosed)

Anthony Rucano

ANTHONY RUCANO, 11A0528
Great Meadow Correctional Facility
P.O. Box 51
Comstock, N.Y. 12821-0051

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

The People Of The State Of New York,
Respondent,

Affidavit of Service

v.

Ind. No. 270-09
A.D. # 2011-01960

Anthony Rucano,
Appellant,

Sate of New York)
) ss.:
County of Washington)

I, Anthony Rucano, being duly sworn, depose and say, that I have on this 1st day of September, 2016, forwarded the enclosed Affidavit and Memorandum of Law in Support of a Writ of Error Coram Nobis and Supplemental Affidavit and Supplemental Memorandum of Law in Support of a Writ of Error Coram Nobis and To Expand The Record, each with attached exhibits and with a shared Appendix between them to the following:

Richmond County District Attorneys Office
Att: Appeals Bureau
130 Stuyvesant Place
Staten Island, New York 10301

New York State Supreme Court
Appellate Division, Second Department
Att: Hon. Aprilanne Agostino, Clerk
45 Monroe Place
Brooklyn, New York 11201

by placing the paperwork in a first class, postage-paid, properly sealed envelope and depositing the envelope in the inmate mailbox, located at Great Meadow Correctional Facility, to be delivered via the United States Postal Service.

Sworn to before me this
1st day of September, 2016

See Verification

NOTARY PUBLIC

Anthony Rucano

Anthony Rucano, 11A0528
Great Meadow Correctional Facility
P.O. Box 51
Comstock, New York 12821

APPendix "VV"

Affidavit of Service Only

AFFIDAVIT OF SERVICE

APP. Div. Case No 2011-01960

State of New York)
) ss:
County of Washington)

I, ANTHONY RUCANO, being duly sworn, deposes and says:

That I am the ~~petitioner~~/defendant/appellant named herein and make this affidavit of service to establish service upon the below named parties pertaining to ~~petitioner~~/defendant/appellant's Reply to Affirmation of A. Alexander Dunn of Appellate Advocates in Response to Coram Nobis Application

by placing such in a sealed envelope and placed in a U.S. postal box located at Great Meadow C.F., Box 51, Comstock, New York 12821, and served upon the below named parties at the below address:

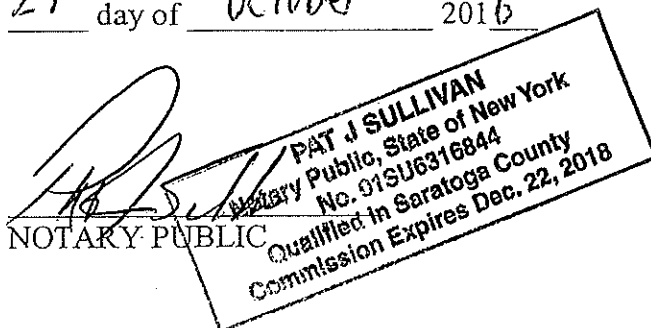
Appellate Advocates
ATT: A. Alexander Dunn
111 John St. 9th Fl.
New York, N.Y. 10038

Richmond Co. Dist. Atty
ATT: Appeals Bureau
130 State Street Place
State Island, NY 10301

Appellate Division, 2nd Dept
Clerk APRIL ANNE AGOSTINO
45 MONROE PLACE
Brooklyn, N.Y. 11201

Sworn to before me this

27th day of October 2016



Anthony Rucano
ANTHONY RUCANO, 11A0528
Great Meadow Correctional Facility
P.O. Box 51
Comstock, NY 12821-0051

APPendix "XX"

Verification With Affidavit of Service ONLY

I, Anthony RUCANO, am a prisoner of the State of New York, currently incarcerated at the Great Meadow Correctional Facility, which is located at 11739 State Route 22, P.O. 51, Comstock, N.Y. 12821-0051, and my ability to acquire the services of a Notary Public is entirely under the control of Corrections Staff and Officials. I have made several attempts to obtain a Notary Public via Law Library as well as by requesting the same to my company officer and other officers here at Great Meadow. Contrary to the decision handed down by the U.S. Supreme Court in Bounds v Smith, 430 U.S. 817, 824-25, 97 S.Ct 1941, at 1946 (1977), I have not received such services to date, nor have I been advised as to how or when the next available Notary Public services will be forthcoming.

THEREFORE, I must verify the enclosed documents by the method approved in the decision of People v Sullivan, 56 N.Y.2d 378 (1982), to wit:

I verify that the foregoing statements and/or documents are true and accurate to the best of knowledge, and that I base them upon facts that I personally know, or believe in good faith to be true. I further declare and /or verify that any false statements made herein are to be punishable as a Class A Misdemeanor pursuant to Penal Law §210.40. I further understand that to offer or present the foregoing documents to a judicial officer, knowing that it contains any false statement(s), is punishable as a Class A Misdemeanor Pursuant to Penal Law §175.30.

Executed on this 1st day of February, 201 7

Documents Verified Are:

- 1) Reply to Affirmation of the Richmond County District Att'y's Office in Response to CORAM Nobis Application
- 2) Affidavit of Service

Anthony Rucano
Anthony RUCANO, 11A0528
Great Meadow Corr. Facility
P.O. Box 51
Comstock, N.Y. 12821-0051

AFFIDAVIT OF SERVICE

State of New York)
) ss:
County of Washington)

I, Anthony RUCANO, being duly sworn, deposes and says:

That I am the ~~petitioner~~/defendant/appellant named herein and make this affidavit of service to establish service upon the below named parties pertaining to ~~petitioner~~/defendant/appellant's Reply to Affirmation of the Richmond County District Att'y's Office in Response to Coram Nobis Application by placing such in a sealed envelope and placed in a U.S. postal box located at Great Meadow C.F., Box 51, Comstock, New York 12821, and served upon the below named parties at the below address:

Richmond County District Attorney
ATT: APPEALS BUREAU
130 STUYVESANT PLACE
STATEN ISLAND, N.Y. 10301

APPELLATE ADVOCATES
ATT: LYNN FAHEY
111 JOHN ST., 9TH FLOOR
NEW YORK, N.Y. 10038

Sworn to before me this

1ST day of FEBRUARY 2017

See Verification Attached
NOTARY PUBLIC

Anthony Rucano
ANTHONY RUCANO, 11A0528
GREAT MEADOW CORR. FACILITY
P.O. BOX 51
COMSTOCK, N.Y. 12821-0051

APPENDIX "YY"

**Supreme Court of the State of New York
Appellate Division: Second Judicial Department**

D51848
G/htr

____AD3d____

WILLIAM F. MASTRO, J.P.
CHERYL E. CHAMBERS
SHERI S. ROMAN
HECTOR D. LASALLE, JJ.

2011-01960

DECISION & ORDER

The People, etc., respondent, v Anthony Rucano,
appellant.

(Ind. No. 270/09)

Anthony Rucano, Comstock, NY, appellant pro se.

Michael E. McMahon, District Attorney, Staten Island, NY (Morrie I. Kleinbart and
Alexander Fumelli of counsel), for respondent.

Lynn W. L. Fahey, New York, NY (A. Alexander Donn of counsel), former appellate
counsel.

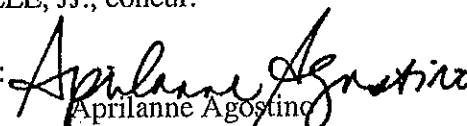
Application by the appellant for a writ of error coram nobis to vacate, on the ground
of ineffective assistance of appellate counsel, a decision and order of this Court dated July 1, 2015
(*People v Rucano*, 130 AD3d 656), affirming a judgment of the Supreme Court, Richmond County,
rendered January 21, 2011.

ORDERED that the application is denied.

The appellant has failed to establish that he was denied the effective assistance of
appellate counsel (*see Jones v Barnes*, 463 US 745; *People v Stultz*, 2 NY3d 277).

MASTRO, J.P., CHAMBERS, ROMAN and LASALLE, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

April 12, 2017

PEOPLE v RUCANO, ANTHONY

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

ANTHONY RUCANO,

Defendant-Appellant.

ORDER WITH NOTICE OF ENTRY

Richmond County Ind. No. 270/2009

Appellate Division No. 2011-01960

PLEASE TAKE NOTICE, that the within is a true copy of the Decision and Order dated April 12, 2017, that was entered with the Clerk of the Court named herein.

Dated: April 25, 2017
Staten Island, New York



Alexander Fumelli
Assistant District Attorney

To: Anthony Rucano
11A0528
Great Meadow Correctional Facility
P.O. Box 51
Comstock, NY 12821-0051

APPendix "ZZ"

Affidavit of Service Only

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF WYOMING)

ANTHONY RUCANO, being duly sworn, deposes and says:
that on this 20th day of JUNE, 2017, I have served true and exact
copies of the foregoing documents: Record on Appeal for Writ of
Error Coram Nobis submitted to the Second Department
Case No. 2011-01960

upon the below listed person(s), to wit: _____
New York State Court of Appeals
ATT: Chief Clerk John R. Asiello
Court of Appeals Hall
20 Eagle st
Albany, N.Y. 12207-1095

by placing same in postage prepaid envelopes and depositing in the U.S. Mail at Attica
Correctional Facility.

DATED: JUNE 20th, 2017

Yours etc.

Anthony Rucano

Attica Correctional Facility
P.O. Box 149
Attica, New York 14011

SWORN TO THIS 20
DAY OF June, 2017
[Signature]

NOTARY PUBLIC

BRIAN HEMBROOK
NOTARY PUBLIC-STATE OF NEW YORK
No. 01HE6342568
Qualified In Erie County
My Commission Expires 05-31-2020

APPendix "AAA"

Affidavit of Service ONLY

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF WYOMING)

Anthony RUCANO, being duly sworn, deposes and says:
that on this 20th day of August, 20 17, I have served true and exact
copies of the foregoing documents: Statement in Support of Certificate
Granting Leave To Appeal, APP. Div. Case No. 2011-01960 And
Richmond County Ind, No. 270/09, from Denial of Writ of Error Coram Nobis
upon the below listed person(s), to wit:

<u>Richmond County District Attorney</u>	<u>Appellate Advocates</u>
<u>ATT: APPEALS BUREAU</u>	<u>ATT: LYNN FAHEY / A. Alexander DONN</u>
<u>130 Stuyvesant Place</u>	<u>111 John St., 9th Floor</u> ^{OF COUNSEL}
<u>Staten Island, N.Y. 10301</u>	<u>New York, N.Y. 10038</u>

by placing same in postage prepaid envelopes and depositing in the U.S. Mail at Attica
Correctional Facility.

DATED: August 20th, 20 17

Yours etc.

Anthony Rucano
Anthony Rucano, 11A0528
Attica Correctional Facility
P.O. Box 149
Attica, New York 14011

SWORN TO THIS 20
DAY OF August, 20 17

[Signature]

NOTARY PUBLIC

BRIAN HEMBROOK
NOTARY PUBLIC-STATE OF NEW YORK
No. 01HE6342568
Qualified In Erie County
My Commission Expires 05-31-2020

APPendix "BBB"

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF WYOMING)

ANTHONY RUCANO, being duly sworn, deposes and says:
that on this 5th day of October, 20 17, I have served true and exact
copies of the foregoing documents: SUPPLEMENTAL STATEMENT IN SUPPORT
OF Certificate Granting Leave To Appeal- APPELLATE DIVISION
CASE # 2011-01860

upon the below listed person(s), to wit:

<u>Richmond County District Attorney's Office</u>	<u>Appellate Advocates</u>
<u>ATT: APPEALS BUREAU</u>	<u>ATT: LYNN FAHEY</u>
<u>130 STUYVESANT PLACE</u>	<u>111 John St. 9th Floor</u>
<u>STATEN ISLAND, N.Y. 10301</u>	<u>New York, N.Y. 10038</u>

by placing same in postage prepaid envelopes and depositing in the U.S. Mail at Attica
Correctional Facility.

DATED: October 5th, 20 17

Yours etc,

Anthony Rucano
ANTHONY RUCANO, 11A0528
Attica Correctional Facility
P.O. Box 149
Attica, New York 14011

SWORN TO THIS 5th
DAY OF October, 20 17
See Verification Attached

NOTARY PUBLIC

Appendix "CCC"

State of New York

Court of Appeals

BEFORE: HON. JANET DiFIORE, Chief Judge

THE PEOPLE OF THE STATE OF NEW YORK,

-against- Respondent,

**ORDER
DENYING
LEAVE**

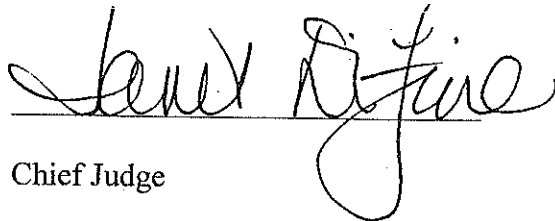
ANTHONY RUCANO, Appellant.

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law § 460.20 from an order in the above-captioned case;*

UPON the papers filed and due deliberation, it is

ORDERED that the application is denied.

Dated: **OCT 19 2017**


Chief Judge

*Description of Order: Order of the Appellate Division, Second Department, entered April 12, 2017, denying defendant's motion for a writ of error coram nobis.

ANTHONY RUCCANO 11A0528
 Green Haven Correctional Facility
 P.O. Box 4000
 Stormville, NY 12582-4000
 August 3rd, 2018

FILED
 IN CLERK'S OFFICE
 US DISTRICT COURT E.D.N.Y.
 ★ AUG 10 2018 ★
 BROOKLYN OFFICE

To Pro Se Clerk,

Good Morning, enclosed you will find my Habeas Petition and Poor Person Papers. Also included is an Appendix List that details the extensive record in the state court proceedings.

For the courts convenience, I have included all available Decision and Orders and Affidavits of Service for all of my Pro-Se submissions to the state courts, to facilitate in the obtaining of the record in this matter.

My Supplemental Hand Written Petition has a Table of Contents, Table of Cases, Questions Presented and an outline of my Procedural History; Necessary for the point I raise challenging the Structural and Procedural Adequacy of the laws in N.Y. State.

I tried very hard for uniformity in referring to the record with the Appendix, and for readability in referring to a larger than normal record (due to my extensive Pro-se Applications) in an effort to make this Courts Job easier. I hope I have succeeded.

God Bless the Honorable Court, I will await the Courts response concerning service. Thank you for your time

Most Respectfully Yours

Anthony Ruccano